

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Indiana Government Center North Room N1058 (B)
Indianapolis, Indiana 46204

IN THE MATTER OF THE REQUEST OF)
SOUTH BEND COMMUNITY SCHOOL)
CORPORATION, ST. JOSEPH COUNTY, FOR) No. 08-005A
THE APPROVAL OF A LEASE WITH THE)
SOUTH BEND COMMUNITY SCHOOL) CORRECTED ORDER
CORPORATION 2002 BUILDING)
CORPORATION)

A petition was filed on behalf of the South Bend Community School Corporation (SBCSC) for approval of a lease rental agreement with SBCSC providing for the lease, containing an option to purchase, which provides for the following project ("Project"): Monroe Primary Center and Marquette Primary Center; and in connection with the undertaking of the Project, the School Corporation will apply a portion of the funds it receives from the sale of the above-referenced schools to the South Bend Community School Corporation 2002 Building Corporation ("Building Corporation") for the cost of any or all or any portion of the improvements to Washington High School and Clay High School as described in the Petition for Approval. The annual maximum lease rental payment is \$2,950,000 payable in semiannual installments on June 30 and December 30 beginning not earlier than June 30, 2009. The total term of the Lease shall not exceed twenty-three (23) years. The total project costs are \$36,165,000.

CORRECTED APPROVAL:

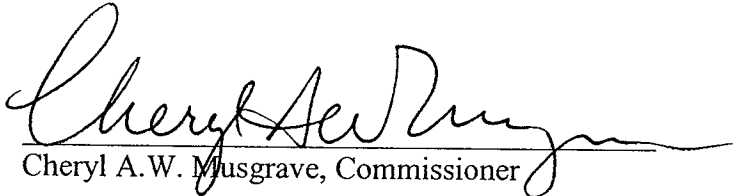
Order #08-005 contained a typographical error in the first paragraph of the Order as it described the Petition filed by SBCSC and the first semiannual installment payment. The Order incorrectly stated the semiannual installments were to begin "not later than June 30, 2009." Actually, the Petition filed by SBCSC stated the first semiannual installment is to begin "not *earlier* than June 30, 2009" [emphasis added]. Thus, the Department hereby acknowledges and approves that the annual maximum lease rental payment is \$2,950,000 payable in semiannual installments on June 30 and December 30 beginning not earlier than June 30, 2009.

Order #08-005 is attached hereto (Exhibit A) and made a part hereof, except to the extent that Corrected Order #08-005A conflicts with the previously issued Order #08-005, in which case, Corrected Order #08-005A controls.

This modified approval is limited to the Project described in File #08-005 and initially approved in Order #08-005 as presented to the Control Board and the Commissioner for consideration.

Dated this 20th day of June, 2008

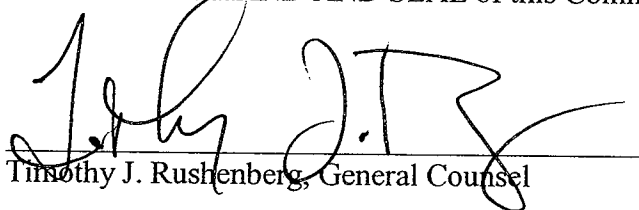
DEPARTMENT OF LOCAL GOVERNMENT FINANCE


Cheryl A.W. Musgrave, Commissioner

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Timothy J. Rushenberg, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of this Commissioner on this the 20th day of June, 2008


Timothy J. Rushenberg, General Counsel

Attachment:
Order #08-005

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Indiana Government Center North Room N1058 (B)
Indianapolis, Indiana 46204

IN THE MATTER OF THE REQUEST OF)
SOUTH BEND COMMUNITY SCHOOL)
CORPORATION, ST. JOSEPH COUNTY, FOR)
THE APPROVAL OF A LEASE WITH THE) No. 08-005
SOUTH BEND COMMUNITY SCHOOL)
CORPORATION 2002 BUILDING)
CORPORATION)

A petition was filed on behalf of the South Bend Community School Corporation (SBCSC) for approval of a lease rental agreement with SBCSC providing for the lease, containing an option to purchase, which provides for the following project ("Project"): Monroe Primary Center and Marquette Primary Center; and in connection with the undertaking of the Project, the School Corporation will apply a portion of the funds it receives from the sale of the above-referenced schools to the South Bend Community School Corporation 2002 Building Corporation ("Building Corporation") for the cost of any or all or any portion of the improvements to Washington High School and Clay High School as described in the Petition for Approval. The annual maximum lease rental payment is \$2,950,000 payable in semiannual installments on June 30 and December 30 beginning not later than June 30, 2009. The total term of the Lease shall not exceed twenty-three (23) years. The total project costs are \$36,165,000.

The Department of Local Government Finance ("Department"), pursuant to Executive Order 05-19, has reviewed the proposed lease and the Project, and has applied the guidelines set forth in the Guidance for Review of School Building Project Financing and the factors set forth in IC 20-46-7-11. The school has complied with the appropriate provisions of IC 6-1.1-20 and IC 20-46-7-8. After careful consideration of all facts, the Department FINDS the following:

1. SBCSC petitioned the Department for approval of the Project on January 18, 2008. The petition was received by the Department on January 23, 2008. *SBCSC Petition for Approval*, January 18, 2008.
2. The preliminary determination to enter into the lease rental agreement, which occurred on June 4, 2007, included the required information in accordance with IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, and was properly published in the newspaper on June 8, 2007:
 - a. The maximum term of the lease is 23 years.
 - b. The maximum annual lease rental payment is \$2,950,000.
 - c. The estimated interest rate that will be paid is expected to not exceed six percent (6%); and the total interest costs associated with the bonds are expected to not exceed \$21,688,795.
 - d. The purpose of the lease is briefly summarized below, and does not contain the entire description of the project as published in the preliminary determination notice:

(1) Monroe Primary Center: complete renovation of the 85,800 sq. ft. existing building, and an addition of a single-story structure of approximately 19,500 sq. ft.;

(2) Marquette Primary Center: construction of a new two-story school building approximately 78,000 sq. ft. is planned for the north end of the current site;

(3) Washington High School: study of traffic patterns on school's parking; and

(4) Clay High School: remodeling of fine arts classrooms to support magnet program.

e. A statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed lease payments are required to file a petition not later than thirty (30) days after publication of the preliminary determination was properly included in the published notice. *Notice of Preliminary Determination of SBCSC Board of School Trustees to Enter Into a Lease*, June 8, 2007.

3. A remonstrance was filed against the project. On December 7, 2007, the St. Joseph County Voter Registration office certified that 3,133 total qualified petitioners supported the Project and 469 total qualified remonstrators opposed the Project. *Voter Registration Office Certificate*, December 7, 2007.

4. SBCSC included a statement in the preliminary determination notice that it expected to appeal for a new facility adjustment (as defined in IC 20-45-1-16) for an increased maximum permissible tuition support levy to pay the estimated costs of opening a new school facility, the 78,000 sq. ft. Marquette Primary Center. Specifically, SBCSC has indicated that a tax levy of \$300,000 will be sought at a tax rate impact of \$0.0055. *Notice of Preliminary Determination of SBCSC Board of School Trustees to Enter Into a Lease*, June 8, 2007; *see also SBCSC School Property Tax Control Board Hearing Information Sheet*, pg 11 of 15, January 22, 2008.

5. In accordance with IC 20-46-7-8, the petition was received by the Department less than twenty-four (24) months after the first date of publication of the preliminary determination. Specifically, the preliminary determination was published on June 8, 2007, and the petition was received by the Department on January 23, 2008. *Notice of Preliminary Determination of SBCSC Board of School Trustees to Enter Into a Lease*, June 8, 2007; *see also SBCSC Petition for Approval*, January 18, 2008.

6. Per IC 20-46-7-9(b), the Department sought the recommendation of the Control Board. The Control Board met on February 21, 2008. The vote by the Control Board in support of the Project was five (5) to one (1) with one (1) abstention. School Property Tax Control Board Meeting Minutes, pg 12-15 of 17, February 21, 2008, http://www.in.gov/dlgf/files/SPTCB_02-21-08.pdf.

7. As authorized by IC 20-46-7-9(c), the Department extended the three (3) month review and decision period by an additional three (3) months when the Department provided written notice to Dr. Robert Zimmerman, former superintendent of SBCSC, on April 10, 2008. *Letter from Department Administrative Officer Chuck McLean to Dr. Zimmerman*, April 10, 2008.

8. In accordance with IC 20-46-7-10, SBCSC properly conducted a feasibility study, held public hearings, and heard public testimony on using a twelve (12) month school term rather than expanding classroom space. This feasibility study was completed on April 23, 2007 by Hebard & Hebard. The hearings on year round school were conducted on June 4, 2007 and June 18, 2007. It was determined by SBCSC that year round school would not affect the need for the Project. *SBCSC School Property Tax Control Board Hearing Information Sheet*, pg 2 of 15, January 22, 2008; see *SBCSC School Property Tax Control Board Hearing Information Sheet*, Appendix D, January 22, 2008.

9. As stated above, the Department considered the factors in IC 20-46-7-11:

a. The current and proposed square footage of school building space per student:

(1) Marquette Primary Center: new construction: 78,000 sq ft.; current sq ft of school bldg per student at current enrollment = 213.55 (66,200 current sq ft / 310 current enrollment), and current sq ft per student at current capacity = 153.24 (66,200 current sq ft / 432 current capacity). Square foot per student at new capacity = 156.00 (78,000 after project sq ft / 500).

(2) Monroe Primary Center: remodeling of existing structure prior to project: 89,720 sq ft; and after project: 108,905. Square foot prior to project per student at current enrollment = 152.34 (89,270 current sq ft / 586 current enrollment), and square foot prior to project per student at current capacity = 141.70 (89,270 current sq ft / 630 current capacity); Square foot per student at proposed capacity = 181.51 (108,905 sq ft after project / 600 new capacity).

(3) Clay High School: paving = no applicable figures available.

(4) Washington High School: paving = no applicable figures available. *SBCSC School Property Tax Control Board Hearing Information Sheet*, Appendix A, January 22, 2008.

b. Enrollment patterns within SBCSC:

2006-2007 school year = 21,824 total
2007-2008 school year = 21,685 total
2008-2009 school year = 21,478 total
2009-2010 school year = 21,430 total
2010-2011 school year = 21,587 total. *SBCSC School Property Tax Control Board Hearing Information Sheet*, Appendix G.

c. The age and condition of the current school facilities:

(1) Marquette Primary Center: constructed in 1936 with 8 classroom addition in 1953.

(2) Monroe Primary Center: constructed in 1931 (i.e., "Castle School").

d. the cost per square foot of the school building construction project:

(1) Marquette Primary Center: total estimated costs of new construction for 78,000 sq ft building per sq ft = \$150.61. The 2008 School Construction Cost Threshold is \$157.30 / sq ft for construction of new elementary school facilities.

http://www.in.gov/dlgf/files/2007_school_construction_thresholds.pdf. Thus, this construction project is below the state threshold.

(2) Monroe Primary Center:

(a) costs of construction for remodeling 89,270 sq ft of elementary building per sq ft = \$145.84.

(b) total estimated costs of construction for a 19,635 sq ft addition to existing elementary building per sq ft = \$194.90. The 2008 School Construction Cost Threshold is \$220.00 / sq ft for additions to an elementary school.

http://www.in.gov/dlgf/files/2007_school_construction_thresholds.pdf. Thus, the construction of the addition is below the state threshold.

e. The effect that completion of the school building construction project would have on SBCSC's tax rate: Maximum tax rate impact of this project = \$0.0463.

f. Any other pertinent matter:

(1) Debt to assessed valuation ratio = 3.57% (outstanding debt); 0.66% (proposed new debt); 4.23% (total debt).

(2) School Corporation's current debt service tax rate = \$0.3156.

(3) New facility appeal tax rate impact = \$0.0055; and tax levy = \$300,000.

(4) General fund tax rate = \$0.6239 for 06p07 (current year)

Debt Service = \$0.3156 for 06p07

Total tax rate with other funds = \$1.5353¹ for 06p07

General fund tax rate = \$0.6239 for 08p09 (first year of debt service repayment)

Debt Service = \$0.2826 for 08p09

Total tax rate with other funds = \$1.5023 for 08p09.

(5) Assessed valuation of SBCSC: 5,509,693,648 for 06p07; 5,620,438,490 for 08p09.
SBCSC School Property Tax Control Board Hearing Information Sheet, January 22, 2008.

10. For 2006-pay-2007, the average general fund tax rate for schools statewide was \$0.6715. SBCSC's general fund tax rate was \$0.6239, which is \$0.0476 below the state average. Thus, SBCSC's general fund tax rate ranks 117th out of 339 schools in the state with a general fund tax rate. *Department's analysis of general fund tax rates for 339 school general fund tax rates statewide*, June 26, 2008.

11. For 2006-pay-2007, the average debt service fund tax rate for schools statewide was \$0.3609. SBCSC's debt service fund tax rate was \$0.3156, which is \$0.0453 below the state average. Thus,

¹This rate provided on the Control Board Hearing Information Sheet does not include additional tax rates for "Art Institute" and "Historical Society." If included, the rate would slightly increase to \$1.5419.

SBCSC's debt service fund tax rate ranks 169th out of 336 schools in the state with a debt service tax rate. *Department's analysis of debt service fund tax rates for 336 school debt service fund tax rates statewide*, June 26, 2008.

12. For 2006-pay-2007, the average total tax rate for schools statewide was \$1.5476. SBCSC's total tax rate was \$1.5419, which is \$0.0057 below the state average. Thus, SBCSC's total tax rate ranks 168th out of 339 schools in the state with a total tax rate. *Department's analysis of total tax rates for 339 school total tax rates statewide*, June 26, 2008.

13. In accordance with IC 20-46-7-10(c), a taxpayer may petition for judicial review of the final determination of the Department. The petition must be filed in the tax court not more than thirty (30) days after the Department enters its order.

14. Per IC 20-46-7-14, the Department has reviewed the Schedule of Amortization of the \$36,165,000 Principal Amount of Proposed First Mortgage Bonds, Series 2008, and determined that January 15, 2011 will be the date of the first principal payment, and January 15, 2009 will be the date of the first interest payment. *SBCSC School Property Tax Control Board Hearing Information Sheet*, Additional Information, page 1 of 2, January 22, 2008.

15. The Department has received letters of support for the Project; particularly, for the Marquette Primary Center portion of the Project, from City of South Bend Common Council President Timothy A. Rouse, Mayor Stephen J. Luecke, and the County Council of St. Joseph County President Rafael Morton. *Letters*, June 16-20, 2008.

16. In his June 18, 2008 letter to the Department, Mayor Luecke states that "though the original financing documents called for demolition of the current Marquette Primary Center, the School Corp. at my request has agreed to consider alternate uses for that building. It is my preference to save structures when possible and to find suitable alternate uses when the original use is no longer practical." *Mayor Luecke letter to Commissioner Musgrave*, June 18, 2008.

17. Thus, as a condition of this Order, SBCSC, over the next 12 months, shall work in good faith with the City of South Bend to explore viable alternative uses for the existing Marquette school building.

18. Approval of this project; particularly, the portion regarding Marquette Primary Center, is not in any manner an approval of the school's mission to have free instruction for 3- and 4-year old children in a pre-K Montessori program. The state does not pay for such programs now, and it would take legislative approval for the state to begin paying for such programs.

WHEREFORE, based upon the above findings, evidence presented to the Department in case file #08-005, and other records the Department considered relevant, the Department hereby APPROVES:

Execution of a lease rental agreement with SBCSC providing for the lease, containing an option to purchase, which provides for the Project described above and in file #08-005. In connection with the undertaking of the Project, the School Corporation will apply a portion of the funds it receives from the sale of the above-referenced schools to the Building Corporation for the cost of any or all or any portion of the improvements to Washington High School and Clay High School described in

the Petition for Approval. The annual maximum lease rental payment is \$2,950,000 payable in semiannual installments on June 30 and December 30 beginning not later than June 30, 2009. The total term of the Lease shall not exceed twenty-three (23) years. The approval is limited to the Project described in file #08-005 as presented the School Property Tax Control Board and the Commissioner for consideration.


Additionally, as stated above, as a condition of this Order, SBCSC, over the next 12 months, shall work in good faith with the City of South Bend to explore viable alternative uses for the existing Marquette school building.

If the construction bids received for the Project are lower than the estimated construction costs presented to the Department, the school corporation and the school building corporation shall amend the lease to lower the lease rental payment to amounts which will amortize the debt. The debt will be limited to total construction bids, costs of issuance, soft construction costs, and construction contingencies. In total, the cost of issuance, soft construction costs and construction contingencies shall not exceed amounts presented to the Department for consideration.

To obtain a debt service rate for 2008 pay 2009, the unit must comply with IC 6-1.1-17-3. In addition, on or before December 31, 2008 the unit must execute the above issues and file with the Department a final amortization schedule.

Dated this 26th day of June, 2008

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

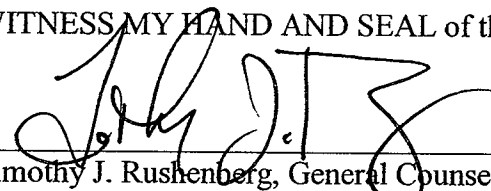

Cheryl A.W. Musgrave, Commissioner

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Timothy J. Rushenberg, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of this Commissioner on this the 26th day of June, 2008


Timothy J. Rushenberg, General Counsel

Ind. Code 5-1-18 *et seq* requires local units of government to provide debt information to the Department not later than December 31 of the year in which the bonds are issued or the lease is executed. In addition, local units of government are also required to annually (before March 1) provide the Department with information regarding their outstanding debt obligations. The documents that must be completed can be found on the DLGF website: http://www.in.gov/dlgf/rates/debt_reporting.html. Please submit completed documents electronically to data@dlgf.in.gov. Questions regarding these documents may be directed to Chuck McLean at (317) 232-3774.